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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC  
C/O PORTFOLIO IP  
P. O. BOX 52050  
MINNEAPOLIS MN 55402

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APR 26 2007

**OFFICE OF PETITIONS**

In re Application of  
Ho, et al. :  
Application No. 09/965,419 :  
Filed: September 27, 2001 :  
Attorney Docket No. P18421 :  
For: METHOD AND APPARATUS FOR  
ENCODING INFORMATION

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed April 11, 2007, to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The Office contends that the above-identified application became abandoned for failure to submit a reply to the February 27, 2006 Notice of Non-Compliant Amendment (Notice), which set an extendable one month period for reply. No extensions of time or reply being received, the Office considered this application abandoned on March 28, 2006. The filing of the present petition precedes the mailing of A Notice of Abandonment.

Petitioners allege that the February 27, 2006 Notice was not received.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.<sup>1</sup>

A review of the record indicates no irregularity in the mailing of the February 27, 2006 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicants at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because practitioner did not include a statement that a search of the file jacket indicates that the Office communication was not received.

Petitioner has not provided adequate evidence of non-receipt. The petition is dismissed.

Further correspondence with respect to this matter should be addressed as follows:

**By mail:** Mail Stop PETITION  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450

**By hand:** U.S. Patent and Trademark Office  
Customer Service Window, Mail Stop Petition  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

**By FAX:** (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

  
Shirene Willis Brantley  
Senior Petitions Attorney  
Office of Petitions

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<sup>1</sup> See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).